



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2009 Biennium

<b>Bill #</b>	HB0147	<b>Title:</b>	Revise and clarify application of bed tax and sales and use tax
<b>Primary Sponsor:</b>	Jopek, M.	<b>Status:</b>	As Introduced-Revised

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$298,077	\$303,010	\$308,025	\$313,122
<b>Revenue:</b>				
General Fund	\$315,919	\$320,186	\$324,545	\$328,997
State Special Revenue	\$298,077	\$303,010	\$308,025	\$313,122
<b>Net Impact-General Fund Balance</b>	<u><u>\$315,919</u></u>	<u><u>\$320,186</u></u>	<u><u>\$324,545</u></u>	<u><u>\$328,997</u></u>

### Description of Bill:

This bill clarifies that fees charged by intermediaries, such as on-line reservation services, are part of the base on which the lodging facility use tax, the accommodations sales tax, and rental car sales tax is collected. It also requires an intermediary to collect and remit the tax when the intermediary takes payment for lodging or car rentals.

### FISCAL ANALYSIS

#### Assumptions:

1. This bill expands the list of lodging facility or accommodations to include timeshares available for rental and vacation home rental. The definition of lodging facility or accommodations includes all facilities that provide overnight lodging facilities for periods of less than 30 days to the public for compensation. Therefore these types of facilities are subject to lodging and accommodations tax currently. No data is available to determine if the revision will affect revenues.
2. Sections 3 and 10 of this bill clarify that fees charged by intermediaries, such as on-line reservation services are part of the base for the lodging facility use tax, the accommodations sales tax, and the rental car sales tax.

3. The bill is effective July 1, 2007.
4. The Department of Revenue obtained quotes for rooms in Helena, Billings, Missoula, Kalispell, Bozeman, Great Falls, and Glendive through three on-line reservation services and directly from the lodging facilities. On average, the intermediaries' quotes were \$8.07 higher. Intermediaries often obtain discounts from lodging operators when they book a room, so that the intermediaries' fees probably are higher than this. However, since the discounts intermediaries obtain are unknown, the average intermediary fee is estimated to be \$8.07.
5. In 2003, the number of lodging rooms rented in Montana was 5,146,000. From 1999 to 2003, room rental grew at an average annual rate of 1.65% (Institute for Tourism and Recreation Research, University of Montana). Assuming that lodging rentals continue to grow at the same rate, rentals will number 5,540,472 in FY 2008, 5,632,160 in FY 2009, 5,725,365 in FY 2010, and 5,820,113 in FY 2011.
6. One-third of hotel rooms are booked on line (*Time* magazine, Vol. 164, 2004) and half of reservations made on line are made through an intermediary (PhoCusWright (research firm) 2004 research cited on Orbitz website). Thus, one-sixth of rooms are booked through intermediaries.
7. Taxable intermediary charges will be \$7,451,935 in FY 2008 ( $\$8.07 \times 5,540,476 \times 1/6$ ), \$7,575,255 in FY 2009 ( $\$8.07 \times 5,632,160 \times 1/6$ ), \$7,700,616 in FY 2010 ( $\$8.07 \times 5,725,365 \times 1/6$ ), and \$7,828,052 in FY 2011 ( $\$8.07 \times 5,820,113 \times 1/6$ ).

#### **Accommodations Sales Tax**

8. The rate for the accommodations sales tax is 3%, and vendors are allowed to retain 5% of taxes collected, up to \$1000 per quarter. Additional revenue will be \$212,380 in FY 2008 ( $95\% \times 3\% \times \$7,451,935$ ), \$215,895 in FY 2009 ( $95\% \times 3\% \times \$7,575,255$ ), \$219,468 in FY 2010 ( $95\% \times 3\% \times \$7,700,616$ ), and \$223,099 in FY 2011 ( $95\% \times 3\% \times \$7,828,052$ ).
9. All revenue from the accommodations sales tax is deposited in the general fund.

#### **Lodging Facility Use Tax**

10. The rate for the lodging facility use tax is 4%, and no vendor allowance is deducted. Additional revenue will be \$298,077 in FY 2008 ( $4\% \times \$7,451,935$ ), \$303,010 in FY 2009 ( $4\% \times \$7,575,255$ ), \$308,025 in FY 2010 ( $4\% \times \$7,700,616$ ), and \$313,122 in FY 2011 ( $4\% \times \$7,828,052$ ).
11. The Department of Revenue would need to upgrade its data processing system to accommodate electronic filing for lodging taxes at a cost of \$100,000 in FY 2008. To handle the increased volume and complexity of returns, the Department of Revenue would require an additional 1.00 FTE auditor and an additional 0.50 FTE for processing. The additional costs would be \$221,833 in FY 2008 and \$109,719 per year in following years.
12. State agencies are reimbursed 4% of their lodging costs. Thus, they are already being reimbursed for the tax on any intermediary fees they pay and there will be no change in agency reimbursements.
13. The lodging facility use tax is allocated first to pay the department's costs of administering the tax and to reimburse state agencies for taxes paid on employees' business travel.
14. Remaining revenue is allocated 67.5% to the Department of Commerce; 1% to the Montana Historical Society; 2.5% to the University System for the Montana Travel Research Program; 6.5% to the Department of Fish, Wildlife, and Parks; and 22.5% to regional and local nonprofit tourism organizations. Total additional revenue to these entities is \$76,244 in FY 2008, \$193,292 in FY 2009, \$198,306 in FY 2010 and \$203,403 in FY 2011. The following table provides a breakdown of the change in revenue to each entity receiving a percentage of lodging facility use tax revenue. These funds would be statutorily appropriated as currently provided in statute.

Estimated Change in Revenues Under HB 147				
	FY2008	FY2009	FY2010	FY2011
Department of Commerce	\$51,465	\$130,472	\$133,856	\$137,297
Montana Historical Society	\$762	\$1,933	\$1,983	\$2,034
Montana Travel Research Program	\$1,906	\$4,832	\$4,958	\$5,085
Department of Fish Wildlife and Parks	\$4,956	\$12,564	\$12,890	\$13,221
Regional and Local Non-profit Tourism Organizations	\$17,155	\$43,491	\$44,619	\$45,766

### Rental Car Sales Tax

15. To estimate the average fee intermediaries charge to book a rental car on line, the Department of Revenue compared price quotes from eight rental car companies in seven Montana cities for four different types of vehicles with prices for the same vehicles quoted by three on-line intermediaries. The average difference was \$1.41, or 2.39% of the pre-tax price. The actual fee is likely to be larger because the intermediaries negotiate discounts with the rental companies, but since the discounts are unknown, the average fee is assumed to be 2.39% of the pre-tax price.
16. About 48% of travelers who rent a car reserve it on line (*Travel Weekly*, September 2001). It is assumed that, as with lodging, half of on-line reservations are made through an intermediary. Thus, this bill will increase revenue by 0.574% each fiscal year ( $2.39\% \times 48\% \times 50\%$ ).
17. Under current law, rental car tax receipts will be \$3.000 million in FY 2008, \$3.131 million in FY 2009, \$3.268 million in FY 2010 and \$3.411 million in FY 2011. Additional revenue due to this bill would be \$17,220 in FY 2008 ( $0.574\% \times \$3.000$  million), \$17,972 in FY 2009 ( $0.574\% \times \$3.131$  million), \$18,758 in FY 2010 ( $0.574\% \times \$3.268$  million), and \$19,579 in FY 2011 ( $0.574\% \times \$3.411$  million). All rental car tax revenue is deposited in the general fund.

### Department of Revenue Audit Revenues

18. Department of Revenue auditors generate an average of \$500,000 per year in audit revenues. As a conservative estimate, the additional accommodations tax auditor is assumed to generate additional revenue equal to the ongoing costs associated with audit FTE. These audit revenues are deposited into the general fund.

### Department of Revenue Administrative Expenses

19. The bill will require 1.00 FTE auditor and associated operating expenses including travel totaling \$92,171 in FY 2008 and \$86,319 in FY 2009. In addition, 0.50 FTE seasonal employees and associated operating expenses would be required for revenue collection processing. Finally, \$100,000 contracted services is necessary in FY 2008 for contracted computer systems.

### Total General Fund Revenues

20. Total additional revenue to the general fund is the sum of rental car tax revenue, accommodations sales tax revenue and audit revenue. Total additional revenue is:
- \$315,919 in FY 2008 ( $\$17,220 + \$212,380 + \$86,319$ ),
  - \$320,186 in FY 2009 ( $\$17,972 + \$215,895 + \$86,319$ ),
  - \$324,545 in FY 2010 ( $\$18,758 + \$219,468 + \$86,319$ ),
  - \$328,997 in FY 2011 ( $\$19,579 + \$223,099 + \$86,319$ ).

	<b><u>FY 2008 Difference</u></b>	<b><u>FY 2009 Difference</u></b>	<b><u>FY 2010 Difference</u></b>	<b><u>FY 2011 Difference</u></b>
<b><u>Fiscal Impact:</u></b>				
FTE	1.50	1.50	1.50	1.50
<b><u>Expenditures:</u></b>				
Personal Services	\$75,030	\$71,221	\$71,221	\$71,221
Operating Expenses (DOR)	\$146,803	\$38,499	\$38,499	\$38,499
Operating Expenses (Stat. At	\$76,244	\$193,290	\$198,305	\$203,402
<b>TOTAL Expenditures</b>	<b>\$298,077</b>	<b>\$303,010</b>	<b>\$308,025</b>	<b>\$313,122</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$298,077	\$303,010	\$308,025	\$313,122
<b>TOTAL Funding of Exp.</b>	<b>\$298,077</b>	<b>\$303,010</b>	<b>\$308,025</b>	<b>\$313,122</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$315,919	\$320,186	\$324,545	\$328,997
State Special Revenue (02)	\$298,077	\$303,010	\$308,025	\$313,122
<b>TOTAL Revenues</b>	<b>\$613,996</b>	<b>\$623,196</b>	<b>\$632,570</b>	<b>\$642,119</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$315,919	\$320,186	\$324,545	\$328,997
State Special Revenue (02)	\$0	\$0	\$0	\$0

**Effect on County or Other Local Revenues or Expenditures:**

1. Regional and local non-profit tourism promotion organizations would receive additional revenue of \$17,155 in FY 2008, \$43,491 in FY 2009, \$44,619 in FY 2010, and \$45,766 in FY 2011.

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*Sponsor's Initials*\_\_\_\_\_  
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